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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	AWA Docket 15-0016
	)	
TERRY BEAL, an individual doing business as BUFFALO BEAL'S ANIMAL PARK,	)	
	)	CONSENT DECISION
Respondent.	)	AND ORDER

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(AWA or Act), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), on October 23, 2014, alleging that the respondent willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.)(Regulations and Standards). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to these proceedings (7 C.F.R. § 1.138).

Respondent admits the jurisdictional allegations in the complaint and specifically admits that the Secretary has jurisdiction in this matter, admits the remaining allegations as set forth herein as findings of fact and conclusions of law, waives oral hearing and further procedure, and consents and agrees to the entry of this decision, for the purpose of settling this proceeding, all AWA issues arising from noncompliance or deficiencies documented by APHIS on July 7, 2014, April 15, 2015, and September 15, 2015, and any and all AWA issues arising from noncompliance or deficiencies in connection with incidents on August 29, 2011, April 21, 2015, and May 20, 2014, involving respondent's animals. The complainant agrees to the entry of this decision.

FINDINGS OF FACT

1. Terry Beal is an individual doing business as Buffalo Beal's Animal Park, and whose mailing address is 3259 Water Plant Road, Maiden, North Carolina 28650. At all times

mentioned herein, respondent Beal was an exhibitor, as that term is used in the Act and the Regulations, and held AWA license 55-C-0138.

2. On or about December 13, 2011, respondent failed to have a responsible person available to accompany APHIS inspectors on an inspection.

3. On or about May 28, 2014, respondent failed to employ an attending veterinarian under formal arrangements that included a written program of veterinary care for the provision of care to all animals in respondent's custody.

4. On or about the following dates, respondent failed to comply with the Regulations governing the provision of adequate veterinary care, as follows:

a. October 28, 2009. Respondent failed to observe and obtain adequate veterinary care for a llama with a swollen mass on the side of its face.

b. February 3, 2010. Respondent had no mechanism in place to assist a goat trapped in a fence that was threatened, injured, and harassed by other animals for two hours.

c. May 24, 2010. Respondent failed to observe and obtain adequate veterinary care for no fewer than seven lame goats, one goat with visible skin problems, one thin goat, and multiple goats with overgrown hooves.

d. May 24, 2010. Respondent failed to obtain adequate veterinary care for four baby doll sheep that were in need of shearing.

e. May 24, 2010. Respondent failed to obtain adequate veterinary care for a white dwarf rabbit with multiple scabs in both ears.

f. August 23, 2010. Respondent failed to obtain adequate veterinary care for two goats and one lamb that were lame and two goats and a Scottish Highlander with overgrown hooves.

g. October 5, 2010. Respondent failed to obtain adequate veterinary care for

a Scottish Highlander with overgrown hooves.

h. July 5, 2011. Respondent failed to observe and obtain adequate veterinary care for a New Guinea singing dog with a swollen mass in the right inguinal area.

i. April 16, 2013. Respondent failed to obtain adequate veterinary care for a goat that was found dead and was observed to have swelling in its jaw area, but had not been seen by a veterinarian.

j. May 28, 2014. Respondent failed to observe a rabbit that had given birth, failed to obtain adequate veterinary care for a goat, and failed both to observe and to obtain adequate veterinary care for an elk and a coatimundi.

5. On or about the following dates, respondent failed to make, keep, and maintain complete and accurate records for the following animals:

a. August 23, 2010. Pot-bellied pigs, guinea pigs, fallow deer, ring-tailed lemur, and brown lemur.

b. October 5, 2010. Rabbits, guinea pigs and lemurs.

c. July 5, 2011. Blackbuck, rabbits, guinea pigs, goats, a nilgai, a snow macaque, an eland, llamas, and fallow deer.

6. On or about the following dates, respondent failed to handle animals as required:

a. October 28, 2009. Respondent exhibited approximately sixty animals, including oryx, elk, eland, fallow deer, water buffalo, and blackbuck, with no public barriers separating the enclosures housing these animals from the public.

b. October 28, 2009. Respondent permitted the public to have direct contact with approximately one hundred animals, without an adequate number of attendants or

employees present.

c. February 3, 2010. Respondent exhibited approximately sixty animals, including oryx, elk, eland, fallow deer, water buffalo, and blackbucks, with no public barriers separating the enclosures housing these animals from the public.

d. February 3, 2010. Respondent exhibited a camel with no distance and/or barriers between the animal and the public, and permitted a child to approach the camel during feeding, and the camel picked the child up.

e. February 3, 2010. Respondent housed and exhibited a capybara (*Hydrochoerus hydrochaeris*) in an enclosure that did not offer access to a water refuge.

f. February 3, 2010, and May 24, 2010. Respondent permitted the public to have direct contact with approximately one hundred animals, without an adequate number of attendants or employees present.

g. August 23, 2010. Respondent permited the public to have direct contact with approximately fifty animals, without an adequate number of attendants or employees present.

h. July 5, 2011. Respondent failed to handle a muntjac as carefully as possible, and housed the muntjac in an enclosure that permitted the animal to escape on July 4, 2011, and at the time of inspection, respondent had failed to recapture the muntjac.

i. May 23, 2014. During exhibition, respondent's personnel permitted a rhesus macaque (Zander) to exit its enclosure, whereupon it attacked and bit a three-year-old child.

j. May 23, 2014. Respondent handled Zander in a manner that permitted it

to exit its enclosure, whereupon it attacked and bit a three-year-old child.

k. May 28, 2014. Respondent exhibited rhesus macaques, snow macaques and a spider monkey without adequate distance and/or barriers between the animals and the public

7. On or about October 28, 2009, respondent failing to meet the Standards, as follows:

a. Respondent failed to provide adequate ventilation for rabbits and guinea pigs; b. Guinea pig enclosures were wet, contained an excessive amount of feces, and emitted a strong ammonia smell;

c. Rabbit enclosures contained an excessive amount of excreta and wet bedding, as well as two dead infant rabbits;

d. The concrete floor in the den area used by two baboons and a mandrill was pitted and eroded;

e. Enclosures for the rhesus macaque and pig-tailed macaque contained excessive amounts of feces and had not been cleaned in several days;

f. Respondent failed to provide adequate enrichment to the nineteen nonhuman primates at respondent's facility, no written plan was available, the mandrill only had a perch in its enclosure, and the rhesus macaque had begun to self-mutilate;

g. The water receptacle for the chimpanzee had algae growing in it;

h. Respondent housed eland in an enclosure with a fence in disrepair, with broken, rusty, and sharp wires protruding into the enclosure and accessible to the animals;

i. Respondent housed a giraffe in an enclosure that had a large gap between a fence post and the giraffe house, which gap would permit persons or animals to enter the

enclosure;

j. Respondent failed to provide adequate shelter from sunlight for camel, llama and sheep; and

k. Respondent failed to provide adequate shelter from the elements for African crested and North American porcupines.

8. On or about February 3, 2010, respondent failed to meet the Standards, as follows:

a. Recently-removed bedding in guinea pig enclosures contained an excessive amount of feces and there was a noticeable ammonia odor in the building housing the guinea pigs;

b. Respondent failed to employ a sufficient number of adequately-trained employees to maintain acceptable husbandry standards, or to make regular repairs;

c. Recently-removed bedding from rabbit enclosures contained an excessive amount of feces and there was a noticeable ammonia odor in the building housing the rabbits;

d. The sides of rabbit enclosures had a thick build-up of crystallized urine;

e. The concrete floor in the den area used by two baboons and a mandrill was pitted and eroded;

f. The concrete floor in the den area used by the chimpanzee was unsealed and stained, and allowed feces, urine, and decaying food to be absorbed;

g. Respondent failed to clean and sanitize the surfaces of housing facilities for the rhesus macaque, pig-tailed macaque, snow macaques, brown-tailed lemurs, ring-tailed lemurs, capuchin monkeys, baboon, chimpanzee, and mandrill, as required;

h. Respondent housed nonhuman primates, including snow macaques, ring-tailed lemur, spider monkeys, capuchin monkeys, in enclosures without adequate shelter from the elements;

i. Respondent's environmental enhancement plan for nonhuman primates did not document the history, socialization attempts, or efforts to meet the needs of eight singly-housed nonhuman primates;

j. Respondent did not follow his enrichment plan with respect to the mandrill and baboons;

k. Respondent failed to provide adequate enrichment to all of the nonhuman primates at respondent's facility;

l. Respondent did not provide special attention to a baboon (Monk) that was exhibiting head tossing and circling behaviors;

m. Respondent did not give special consideration to a chimpanzee (JR);

n. Respondent housed a goat in an enclosure with an fence made of 4-by-4 inch wire. The goat was observed struggling and unable to remove its head from one of the openings. During the two-hour period when the goat was trapped, a camel in the adjoining enclosure took the goat's head in its mouth, and twisted and pulled the goat's head, and a Great Pyrenees dog harassed the goat;

o. Respondent failed to provide ten animals, including a kangaroo and newborn zebu, lambs, and goats, with adequate shelter from the elements;

p. Respondent failed to remove excreta from the shelters for forty-three animals, including zebu, fallow deer, and kangaroo, as required; and

q. There were dead rodents and poison pellets in the areas around the food storage area, chemicals stored over open food containers in the food storage room, and spilled feed on the floor.

9. On or about May 24, 2010, respondent failed to meet the Standards, as follows:

a. The bedding in guinea pig enclosures contained an excessive amount of feces and urine, and there was a noticeable ammonia odor in the building housing ten guinea pigs;

b. Respondent failed to employ a sufficient number of adequately-trained employees to maintain acceptable husbandry standards or to make regular repairs;

c. Rabbit bedding was wet with urine and feces and had an ammonia smell;

d. Respondent failed to clean troughs under the rabbit hutches as often as necessary;

e. Respondent's resting platform in the snow macaques' enclosure was damaged, which made it unstable;

f. The concrete floor in the den area used by a baboon and a mandrill was pitted and eroded;

g. The concrete floor in the den area used by the chimpanzee was unsealed, stained and allowed feces, urine, and decaying food to be absorbed;

h. Respondent failed to clean and sanitize the surfaces of housing facilities for the rhesus macaque, snow macaques, brown-tailed lemurs, ring-tailed lemurs, spider monkey, capuchin, and olive baboon, as required;

i. Respondent's enrichment plan did not document the history, socialization

attempts, or efforts to meet the needs of seven singly-housed nonhuman primates;

j. Respondent did not provide special attention to a baboon (Monk) that was exhibiting head tossing and circling behaviors;

k. Respondent did not give special consideration to a chimpanzee (JR);

l. When the inside shelf of the feeder puzzle in the ring-tailed lemur enclosure was moved, the APHIS inspector observed moldy food caked to the bottom of the feeder, and a large number of cockroach-type insects crawled out of the feeder itself;

m. Respondent housed goats in an enclosure containing tree trunks wrapped with plastic-coated wire, some of which had become detached from the trees, and which represented a hazard to the animals;

n. Respondent housed a giraffe in an enclosure with a spliced fence area with sharp points, and the giraffe had scratch wounds on its chest and both rear legs;

o. Respondent housed porcupine in an enclosure with a rotting elevated resting board and loose wire;

p. Respondent housed a pig and six piglets in an enclosure with a shelter that was in serious disrepair and posed a hazard to the animals;

q. Respondent failed to remove excreta from the shelters for seventy-five animals, including zebu, Scottish Highlander cattle, goats, and kangaroo; and

r. There were rodent feces and a live mouse in the enclosure housing the sugar gliders and Richardson's ground squirrel.

10. On or about August 23, 2010, respondent failed to meet the Standards, as follows:

a. Respondent failed to repair or replace the worn, stained, and moldy plywood

walls and floor of the enclosure housing a spider monkey;

b. Respondent's enrichment plan did not address social groups or the history, socialization attempts, or efforts to meet the needs of seven singly-housed nonhuman primates;

c. Respondent did not follow his plan with respect to mandrill, baboons, and Hamadryas;

d. Respondent did not provide adequate enrichment to all of the nonhuman primates at respondent's facility;

e. Respondent did not provide special attention to a baboon (Monk) that was exhibiting head tossing and circling behaviors;

f. Respondent did not give special consideration to a chimpanzee;

g. Respondent housed eland in an enclosure with a fence with broken, wires protruding into the enclosure, and a broken piece of rebar;

h. There was no fresh food in the sugar gliders' food receptacle;

i. Respondents failed to keep food receptacles for two sugar gliders clean and sanitary at all times, and an APHIS inspector noted a half-inch of rotting, white, moldy food caked on the sides of the gliders' food receptacles;

j. Respondent failed to provide a giraffe with wholesome food that was not contaminated, moldy or deteriorated, and specifically, the bulk of the food in the giraffe's feeder was wet, caked, moldy, and hot;

k. Respondent failed to remove excreta from the pot-bellied pig enclosure, and from the shelters for zebu, llama, blackbuck, Scottish Highlander cattle, goats, sheep, and

a muntjac;

l. Respondent's food preparation contained uncovered food items, food stored on the floor, trash, empty bird cages with feces inside, Christmas decorations, furniture, and blankets;

m. There was evidence of rodent infestation in several areas of the facility, and two mice nests in the ferret enclosure; and

n. Respondent employed an insufficient number of adequately-trained employees to maintain acceptable husbandry standards, or to make regular repairs.

11. On or about October 5, 2010, respondent failed to meet the Standards, as follows::

a. Respondent's enrichment plan did not document the history, socialization attempts, or efforts to meet the needs of seven singly-housed nonhuman primates;

b. Respondent failed to provide the mandrill and baboons with adequate enrichment;

c. Respondent's plan did not address social housing and the needs of infant nonhuman primates;

d. Respondent did not provide special attention to a baboon (Monk) that was continuing to exhibit head tossing and circling behaviors; and

e. Respondent did not give special consideration to a singly-housed chimpanzee.

12. On or about February 9, 2011, respondent stored apples for nonhuman primates without any protection against vermin infestation, and there was evidence that rodents or other pests had eaten the fruit.

13. On or about July 5, 2011, respondent housed a muntjac in an enclosure that permitted the animal to escape on July 4, 2011, and the muntjac was still at large at the time of the inspection; and respondent housed three eland in an enclosure with a fence that was in disrepair and had broken wires accessible to the animals.

14. On or about April 16, 2013, one of the enclosures for nonhuman primates contained a shelter that had a layer of excreta on the floor.

15. On or about May 28, 2014, respondent failed to meet the Standards, as follows:

a. Respondent failed to provide a nest box in an enclosure housing a female rabbit and her litter of newborn rabbits;

b. Respondent's water bowl holder in the enclosure housing the female pig-tailed macaque was damaged, and provided an opening through which the animal could escape;

c. The enclosure for a macaque (Zander) had not been cleaned in five days;

d. The enclosure for two baboons contained piles of old feces, and respondent's practice was not to clean more frequently than every other day;

e. Respondent failed to employ a sufficient number of adequately-trained employees to maintain acceptable husbandry standards, or to make regular repairs;

f. Respondent exhibited rhesus macaques, snow macaques, and a spider monkey in fixed public exhibits without a barrier between the primary enclosure and the public;

g. Respondent failed to repair a ten-foot section of the fence around the enclosure housing a zebra and three bison, which fence had broken wires that were

accessible to and could injure the animals;

h. Respondent failed to remove waste from the enclosure housing two African Crested porcupines;

i. Respondent did not offer five Patagonian cavies food in a food receptacle, but placed the food (corn and apple slices) on the floor of the enclosure, which floor had not been cleaned or raked out in a week and contained an excessive accumulation of feces that mixed with the cavies' food;

j. Respondent failed to remove excreta from the shelters for zebu, llama, Patagonian cavies, Scottish Highlander cattle, ferrets, African Crested porcupines, and capybaras;

k. Respondent's food preparation contained rotting food stored together with food intended to be fed to animals, dirty refrigerators, rodent feces, flies, and respondent housed a dog in the food preparation area; and

l. There were flies throughout the facility, an elk and a fallow deer had flies over their faces, causing them obvious irritation, and there was evidence of rodent infestation in several areas of the facility, including two mice nests in the ferret enclosure.

CONCLUSIONS OF LAW

1. On or about December 13, 2011, respondent willfully violated the Act and the Regulations. 7 U.S.C. § 2146(a), 9 C.F.R. § 2.126.

2. On or about May 28, 2014, respondent willfully violated the Regulations. 9 C.F.R. § 2.40(a)(1).

3. On or about the following dates, respondent willfully violated the veterinary care

Regulations with respect to the following animals (9 C.F.R. § 2.40):

a. October 28, 2009. A llama with a swollen mass on the side of its face.

b. February 3, 2010. A goat trapped in a fence that was threatened, injured, and harassed by other animals for two hours.

c. May 24, 2010. No fewer than seven lame goats, one goat with visible skin problems, one thin goat, and multiple goats with overgrown hooves.

d. May 24, 2010. Four baby doll sheep in need of shearing.

e. May 24, 2010. A white dwarf rabbit with multiple scabs in both ears.

f. August 23, 2010. Two goats and one lamb that were lame and two goats and a Scottish Highlander with overgrown hooves.

g. October 5, 2010. A Scottish Highlander with overgrown hooves.

h. July 5, 2011. A New Guinea singing dog with a swollen mass in the right inguinal area.

i. April 16, 2013. A goat that was found dead and was observed to have swelling in its jaw area, but had not been seen by a veterinarian.

j. May 28, 2014. A rabbit that had given birth, a goat, an elk and a coatimundi.

4. On or about the following dates, respondent willfully violated the recordkeeping Regulations (9 C.F.R. § 2.75(b)(1) with respect to the following animals:

a. August 23, 2010. Pot-bellied pigs, guinea pigs, fallow deer, ring-tailed lemur, and brown lemur.

b. October 5, 2010. Rabbits, guinea pigs and lemurs.

c. July 5, 2011. Blackbuck, rabbits, guinea pigs, goats, a nilgai, a snow macaque, an eland, llamas, and fallow deer.

5. On or about the following dates, respondent willfully violated the handling Regulations, as follows:

a. October 28, 2009. Respondent exhibited approximately sixty animals, including oryx, elk, eland, fallow deer, water buffalo, and blackbuck, without adequate distance and/or barriers between the animals and the public. 9 C.F.R. § 2.131(c)(1).

b. October 28, 2009. Respondent permitted the public to have direct contact with approximately one hundred animals, without an adequate number of attendants or employees present. 9 C.F.R. § 2.131(d)(2).

c. February 3, 2010. Respondent exhibited approximately sixty animals, including oryx, elk, eland, fallow deer, water buffalo, and blackbucks, without adequate distance and/or barriers between the animals and the public. 9 C.F.R. § 2.131(c)(1).

d. February 3, 2010. Respondent exhibited a camel without any distance and/or barriers between the animal and the public. 9 C.F.R. § 2.131(c)(1).

e. February 3, 2010. Respondent failed to demonstrate adequate knowledge of the species he maintained, failed to handle a capybara in exhibition as carefully as possible in a manner that does not cause stress or unnecessary discomfort, and exhibited the capybara under conditions that were inconsistent with the capybara's well-being. 9 C.F.R. §§ 2.131(a), 2.131(b)(1), 2.131(d)(1).

f. February 3, 2010, and May 24, 2010. Respondent permitted the public to have direct contact with approximately one hundred animals, without an adequate number

of attendants or employees present. 9 C.F.R. § 2.131(d)(2).

g. August 23, 2010. Respondent continued to permit the public to have direct contact with approximately fifty animals, without an adequate number of attendants or employees present. 9 C.F.R. § 2.131(d)(2).

h. July 5, 2011. Respondent failed to handle a muntjac as carefully as possible. 9 C.F.R. § 3.125(a).

i. May 23, 2014. During exhibition, respondent handled Zander with inadequate distance and/or barriers to protect the animal and the public. 9 C.F.R. § 2.131(c)(1).

j. May 23, 2014. Respondent failed to handle Zander as carefully as possible in a manner that does not cause trauma, physical harm, or unnecessary discomfort. 9 C.F.R. § 2.131(b)(1).

k. May 28, 2014. Respondent exhibited rhesus macaques, snow macaques and a spider monkey without adequate distance and/or barriers between the animals and the public. 9 C.F.R. § 2.131(c)(1).

6. On or about October 28, 2009, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, respondent:

a. Failed to provide adequate ventilation for rabbits and guinea pigs. 9 C.F.R. §§ 3.26(b), 3.51(b).

b. Failed to clean and sanitize guinea pig enclosures as required. 9 C.F.R. § 3.31(a).

c. Failed to clean rabbit enclosures as required. 9 C.F.R. § 3.56(a).

d. Failed to construct and maintain housing facilities for nonhuman primates in a manner that allowed them to be cleaned and sanitized. 9 C.F.R. § 3.75(c)(1).

e. Failed to clean and sanitize the surfaces of housing facilities for nonhuman primates as required. 9 C.F.R. § 3.75(c)(3).

f. Failed to develop, document, and follow an appropriate plan for environmental enhancement to promote the psychological well-being of nineteen nonhuman primates. 9 C.F.R. § 3.81.

g. Failed to clean the water receptacle for the chimpanzee. 9 C.F.R. § 3.83.

h. Housed eland in an enclosure with a fence in disrepair. 9 C.F.R. § 3.125(a).

i. Housed a giraffe in an enclosure that had a large gap between a fence post and the giraffe house. 9 C.F.R. § 3.125(a).

j. Failed to provide adequate shelter from sunlight for camel, llama and sheep. 9 C.F.R. § 3.127(a).

k. Failed to provide adequate shelter from the elements for African crested and North American porcupines. 9 C.F.R. § 3.127(b).

7. On or about February 3, 2010, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically respondent:

a. Failed to clean and sanitize guinea pig enclosures. 9 C.F.R. § 3.31(a).

b. Failed to employ a sufficient number of adequately-trained employees. 9 C.F.R. §§ 3.32, 3.57, 3.85, 3.132.

c. Failed to clean and sanitize rabbit enclosures as required. 9 C.F.R. §§ 3.56(a), 3.56(b)(1).

d. Failed to construct and maintain housing facilities for nonhuman primates in a manner that allowed them to be cleaned and sanitized. 9 C.F.R. § 3.75(c)(1).

e. Failed to construct and maintain housing facilities for nonhuman primates in a manner that allowed them to be cleaned and sanitized. 9 C.F.R. § 3.75(c)(1).

f. Failed to clean and sanitize the surfaces of housing facilities for nonhuman primates, as required. 9 C.F.R. § 3.75(c)(3).

g. Housed nonhuman primates in enclosures without adequate shelter from the elements. 9 C.F.R. § 3.78(b).

h. Failed to develop, document, and follow an appropriate plan for environmental enhancement to promote the psychological well-being of nonhuman primates, and specifically, respondent did not:

i Document the history, socialization attempts, or efforts to meet the needs of eight singly-housed nonhuman primates. 9 C.F.R. § 3.81(a).

ii. Follow his plan with respect to the mandrill and baboons. 9 C.F.R. § 3.81(b).

iii. Provide adequate enrichment to all of the nonhuman primates at respondent's facility. 9 C.F.R. § 3.81(b).

iv. Provide special attention to a baboon (Monk) that was exhibiting head tossing and circling behaviors. 9 C.F.R. § 3.81(c)(2).

v. Give special consideration to a chimpanzee (JR). 9 C.F.R. § 3.81(c)(5).

i. Failed to house a goat in an enclosure that was constructed and maintained

in good repair to protect the goat from injury. 9 C.F.R. § 3.125(a).

j. Failed to provide ten animals with adequate shelter from the elements. 9 C.F.R. § 3.127(b).

k. Failed to remove excreta from the shelters for forty-three animals. 9 C.F.R. § 3.131(a).

l. Failed to keep the premises clean, in order to protect the animals from injury. 9 C.F.R. § 3.131(c).

8. On or about May 24, 2010, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically respondent:

a. Failed to clean and sanitize guinea pig enclosures. 9 C.F.R. § 3.31(a).

b. Failed to employ a sufficient number of adequately-trained employees. 9 C.F.R. §§ 3.32, 3.57, 3.85, 3.132.

c. Failed to clean rabbit enclosures as required. 9 C.F.R. § 3.56(a).

d. Failed to clean troughs under the rabbit hutches as often as necessary. 9 C.F.R. § 3.56(a)(3).

e. Failed to repair the resting platform in the snow macaque enclosure. 9 C.F.R. § 3.75(a).

f. Failed to construct and maintain housing facilities for a baboon, a mandrill, and chimpanzee, so that they could be cleaned and sanitized. 9 C.F.R. §§ 3.75(c)(1), 3.75(c)(3).

g. Failed to develop, document, and follow an appropriate plan for environmental enhancement to promote the psychological well-being of nonhuman

primates, and specifically, respondent did not:

i. Document the history, socialization attempts, or efforts to meet the needs of seven singly-housed nonhuman primates. 9 C.F.R. § 3.81(a).

ii. Provide special attention to a baboon (Monk) that was exhibiting head tossing and circling behaviors. 9 C.F.R. § 3.81(c)(2).

iii. Give special consideration to a chimpanzee (JR). 9 C.F.R. § 3.81(c)(5).

h. Failed to keep a puzzle food receptacle for the ring-tailed lemur clean and sanitized to minimize contamination. 9 C.F.R. § 3.82(d).

i. Housed goats in an enclosure containing tree trunks wrapped with plastic-coated wire, some of which had become detached from the trees. 9 C.F.R. § 3.125(a).

j. Housed a giraffe in an enclosure with a spliced fence area with sharp points. 9 C.F.R. § 3.125(a).

k. Housed porcupine in an enclosure with a rotting elevated resting board and loose wire. 9 C.F.R. § 3.125(a).

l. Housed a pig and six piglets in an enclosure with a shelter that was in serious disrepair. 9 C.F.R. § 3.125(a).

m. Failed to remove excreta from shelters for seventy-five animals. 9 C.F.R. § 3.131(a).

n. Failed to establish and maintain an effective program of pest control. 9 C.F.R. § 3.131(d).

9. On or about August 23, 2010, respondent willfully violated the Regulations, 9

C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, respondent:

a. Failed to maintain the surfaces of housing facilities for a spider monkey. 9 C.F.R. § 3.75(c)(2).

b. Failed to fail to develop, document, and follow an appropriate plan for environmental enhancement to promote the psychological well-being of nonhuman primates, and specifically:

i. Respondent's plan did not address social groupings, or the history, socialization attempts, or efforts to meet the needs of seven singly-housed nonhuman primates. 9 C.F.R. § 3.81(a).

ii. Respondent did not follow his plan with respect to mandrill, baboons, and Hamadryas. 9 C.F.R. § 3.81(b).

iii. Respondent failed to provide adequate enrichment to all of the nonhuman primates at respondent's facility. 9 C.F.R. § 3.81(b).

iv. Respondent did not provide special attention to a baboon (Monk) that was exhibiting head tossing and circling behaviors. 9 C.F.R. § 3.81(c)(2).

v. Respondent did not give special consideration to a chimpanzee. 9 C.F.R. § 3.81(c)(5).

c. Housed eland in an enclosure with a fence in disrepair, with broken, wires protruding into the enclosure, and a broken piece of rebar. 9 C.F.R. § 3.125(a).

d. Failed to provide two sugar gliders with wholesome food that was not contaminated, moldy or deteriorated. 9 C.F.R. § 3.129(a).

e. Failed to keep food receptacles for two sugar gliders clean and sanitary at

all times. 9 C.F.R. § 3.129(b).

f. Failed to provide a giraffe with wholesome food that was not contaminated, moldy or deteriorated. 9 C.F.R. § 3.129(a).

g. Failed to remove excreta from the pot-bellied pig enclosure, and from the shelters for zebu, llama, blackbuck, Scottish Highlander cattle, goats, sheep, and a muntjac. 9 C.F.R. § 3.131(a).

h. Failed to keep the premises clean, in order to protect the animals from disease and injury. 9 C.F.R. § 3.131(c).

i. Failed to establish and maintain an effective program of pest control. 9 C.F.R. § 3.131(d).

j. Failed to employ a sufficient number of adequately-trained employees to maintain acceptable husbandry standards, or to make regular repairs. 9 C.F.R. § 3.132.

13. On or about October 5, 2010, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to develop, document, and follow an appropriate plan for environmental enhancement to promote the psychological well-being of nonhuman primates, as follows:

a. Respondent's plan did not document the history, socialization attempts, or efforts to meet the needs of seven singly-housed nonhuman primates. 9 C.F.R. § 3.81(a).

b. Respondent failed to provide the mandrill and baboons with adequate enrichment. 9 C.F.R. § 3.81(b).

c. Respondent's plan did not address social housing and the needs of infant nonhuman primates. 9 C.F.R. § 3.81(c)(1).

d. Respondent did not provide special attention to a baboon (Monk) that was continuing to exhibit head tossing and circling behaviors. 9 C.F.R. § 3.81(c)(2).

e. Respondent did not give special consideration to a singly-housed chimpanzee. 9 C.F.R. § 3.81(c)(5).

14. On or about February 9, 2011, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and stored apples for nonhuman primates without any protection against vermin infestation, and there was evidence that rodents or other pests had eaten the fruit. 9 C.F.R. § 3.75(e).

15. On or about July 5, 2011, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, respondent::

a. Housed a muntjac in an enclosure that permitted the animal to escape on July 4, 2011, and the muntjac was still at large at the time of the inspection. 9 C.F.R. § 3.125(a).

b. Housed three eland in an enclosure with a fence that was in disrepair and had broken wires accessible to the animals. 9 C.F.R. § 3.125(a).

16. On or about April 16, 2013, respondent willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, 9 C.F.R. § 3.75(c)(3), and failed to clean and sanitize the surfaces of housing facilities for nonhuman primates as required.

17. On or about May 28, 2014, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards, and specifically, respondent:

a. Failed to provide a nest box in an enclosure housing a female rabbit and her litter of newborn rabbits. 9 C.F.R. § 3.53(a)(5).

b. Failed to repair or replace a damaged water bowl holder in the enclosure housing the female pig-tailed macaque. 9 C.F.R. § 3.75(a).

c. Failed to clean and sanitize the surfaces of housing facilities for a macaque and two baboons, as required. 9 C.F.R. § 3.75(c)(3).

d. Failed to employ a sufficient number of adequately-trained employees. 9 C.F.R. §§ 3.85, 3.132.

e. Exhibited rhesus macaques, snow macaques, and a spider monkey in fixed public exhibits without a barrier between the enclosure and the public. 9 C.F.R. § 3.78(e).

f. Failed to repair a ten-foot section of the fence around the enclosure housing a zebra and three bison. 9 C.F.R. § 3.125(a).

g. Failed to remove waste from the enclosure housing two African Crested porcupines. 9 C.F.R. § 3.125(d).

h. Failed to provide five Patagonian cavies with wholesome food that was not contaminated. 9 C.F.R. § 3.129(a).

i. Failed to remove excreta from shelters for zebu, llama, Scottish Highlander cattle, Patagonian cavies, ferrets, African Crested porcupines, and capybaras. 9 C.F.R. § 3.131(a).

j. Failed to keep the premises clean to protect animals from disease and injury. 9 C.F.R. § 3.131(c).

s. Failed to establish and maintain an effective program of pest control. 9 C.F.R. § 3.131(d).

18. Respondent has admitted the facts set forth above and the parties have agreed to the

entry of this decision. Therefore, such decision will be entered.

Order

1. Respondent, his agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and Standards.

2. AWA license number 55-C-0138 is suspended for one month, beginning February 1, 2016, and continuing thereafter until such time as respondent has demonstrated to APHIS that he is compliance with the Act and the Regulations and Standards.

3. By April 15, 2016, respondent shall dispose of all nonhuman primates in respondent's custody, by sale or donation to persons who can be expected to offer a level of care equal to or exceeding the Act and the Regulations and Standards, as determined by APHIS.

4. The one-year period of time between March 1, 2016, and February 28, 2017, shall be referred to as the "probation period." The respondent agrees that if APHIS notifies respondent that it has documented a failure, during the probation period, to comply with the Act or the Regulations, to meet the minimum Standards, or to comply with Paragraph 3 of this Order, upon receipt of such notice and copies of the supporting documentation, respondent may, without further procedure, be assessed a civil penalty of $5,000 for each such documented failure to comply with the Act or the Regulations, to meet the minimum Standards, or to comply with Paragraph 3 of this Order. The respondent further agrees to a prospective waiver of his right to notice and opportunity for an oral hearing pursuant to section 19 of the Act (7 U.S.C. § 2149) as to any such failure to comply with the Act or the Regulations, or to meet the minimum Standards. The complainant and the respondent agree that respondent may seek injunctive, declaratory or other appropriate relief

in the United States District Court for the Western District of North Carolina or in the United States District Court for the District of Columbia.

The provisions of this order shall become effective immediately. Copies of this decision shall be served upon the parties.

Terry Beal
dba Buffalo Beal's Animal Park
Respondent

Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.,
this 7 day of January 2016

Jill S. Clifton
Administrative Law Judge